

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

Cheri S. Hodges,) C/A No. 2:23-cv-418-BHH
)
)
Plaintiff,) **COMPLAINT**
) **E.R.I.S.A. - Non-Jury**
vs.)
)
Life Insurance Company of North America,)
)
)
Defendant.)

Plaintiff Cheri S. Hodges, by and through her undersigned counsel, complaining of the above-named Defendant Life Insurance Company of North America, would respectfully show unto this Honorable Court the following:

JURISDICTION AND VENUE

1. Plaintiff is a citizen and resident of Dorchester County, South Carolina.
2. Prior to her disability, Plaintiff was employed at Pinnacle Financial Partners in South Carolina.
3. Upon information and belief, Pinnacle Financial Partners created an employee welfare benefits plan for the purpose of providing long term disability (LTD) benefits to its employees.
4. At all times material to the allegations contained here, Plaintiff Cheri S. Hodges was a participant in the employer's LTD Plan (hereinafter "the Plan").
5. Defendant Life Insurance Company of North America (hereinafter "LINA") is the claims administrator and a fiduciary of the LTD Plan.

6. Defendant LINA is a fiduciary with respect to the LTD Plan.
7. The LTD Plan is governed by the Employee Retirement and Income Security Act of 1974 (hereinafter “ERISA”), 29 U.S.C. § 1001, *et seq.*
8. Pursuant to 29 U.S.C. §1132(e), this Court has jurisdiction over Plaintiff’s claims.

FACTUAL ALLEGATIONS

9. Prior to her disability, Cheri S. Hodges enrolled in the LTD Plan.
10. Since February 8, 2021, Plaintiff has been unable to perform the material and substantial duties of her Own Occupation, as well as Any Occupation, due to medical issues.
11. After she became disabled, Plaintiff applied for LTD benefits.
12. On June 23, 2022, Defendant LINA denied Plaintiff’s claim for LTD benefits.
13. On October 18, 2021, Plaintiff timely appealed Defendant LINA’s LTD denial decision.
14. On January 30, 2023, Defendant LINA denied Plaintiff’s appeal.
15. Plaintiff has exhausted all administrative remedies under the LTD Plan.
16. Despite Plaintiff’s continuous total disability since February 8, 2021, Defendant LINA has wrongfully failed to pay LTD benefits to Plaintiff as required by the Plan.

CAUSE OF ACTION

Plaintiff’s Claim for LTD, pursuant to 29 U.S.C. §§ 1132(a)(1)(B)

17. Plaintiff incorporates all prior allegations herein, where not inconsistent, as if fully set forth herein.
18. Plaintiff has been totally disabled from performing the material duties of her regular occupation or any other occupation for which she is reasonably qualified since February 8, 2021.

19. Plaintiff is entitled to LTD benefits under the Plan.
20. Plaintiff has been totally disabled from performing the material duties of any occupation for which she is capable of performing by way of education, training, or experience, and is entitled to LTD benefits to the maximum age under the terms of the Plan as described above.
21. Plaintiff seeks LTD benefits under the terms of the Plan, to enforce her rights under the terms of the Plans, and to clarify her rights to future benefits under the terms of the Plans, pursuant to 29 U.S.C. §1132(a)(1)(B).
22. Plaintiff respectfully requests that the Court order each Defendants to pay all amounts due and owing for the Plaintiff's LTD benefits under the terms of the LTD Plan pursuant to 29 U.S.C. § 1132(a)(1)(B).
23. Pursuant to 29 U.S.C. §1132(g), Plaintiff also respectfully requests that the court grant Plaintiff's attorneys fees and costs.

WHEREFORE, Plaintiff Cheri S. Hodges prays for judgment directing Defendant LINA to pay Plaintiff's LTD benefits pursuant to the Long Term Disability Plan, attorneys fees and costs, and all such further relief as the Court deems just and proper.

[signature on following page]

Respectfully Submitted,

s/John R. Peace
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Attorney for Plaintiff Cheri S. Hodges

January 31, 2023